

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Implementation of Sections 11 and 13)
of the Cable Television Consumer)
Protection and Competition Act of 1992)

MM Docket No. 92-264

Horizontal and Vertical Ownership)
Limits, Cross-Ownership Limitations)
and Anti-Trafficking Provisions)

REPLY COMMENTS OF
AFFILIATED REGIONAL COMMUNICATIONS, LTD.

In its comments in response to the Commission's Further Notice of Proposed Rulemaking in this proceeding, Affiliated Regional Communications, Ltd. ("ARC") again demonstrated that exclusion of local and regional programming services from the channel occupancy limits is in the public interest. Such exclusion will serve several basic Congressional objectives in enacting the Cable Television Consumer Protection and Competition Act of 1992 by promoting: (a) diversity of viewing choices for consumers; (b) development of programming responsive to local needs and interests; and (c) continuation and growth of locally originated programming.

Only the Motion Picture Association of America, Inc. ("MPAA") and the "Local Governments" objected to the Commission's proposed exclusion of local and regional programming

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from the channel occupancy limits.¹ See MPAA Comments at 10; Comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the United States Conference of Mayors, and the National Association of Counties ("Local Governments") at 9-10. However, neither MPAA nor the Local Governments offer any empirical support or rational basis for opposing the exclusion.

MPAA suggests that it will be difficult to judge "whether particular programming is targetted to...local audiences" and argues that the "must-carry" provisions are adequate to ensure "the availability of local programming on cable networks." MPAA Comments at 10. Clearly, MPAA's concern over the difficulty in identifying local or regional programming networks is misplaced. ARC has proposed a simple definition which will be easy to administer.² How over-the-

¹ All other commenters addressing this issue supported the Commission's proposed exclusion for local and regional cable programming services. See Comments of Liberty Media Corporation ("Liberty Media") at 14-15; Comments of National Cable Television Association, Inc. at 21-22; Comments of Rainbow Programming Holdings, Inc. at 9-10; Comments of Telecommunications, Inc. at 33-34; Comments of Time Warner Entertainment Company, L.P. ("Time Warner") at 33-34; Comments of Turner Broadcasting System, Inc. at 7; and Comments of Viacom International Inc. ("Viacom") at 8-9.

² For purposes of implementing this exclusion, the Commission should define a "local and regional programming service" as "a video programming service which: (a) is marketed and distributed to viewers in a particular community, state or multi-state geographic region rather than nationwide; and (b) originates programming of particular interest to, or sports coverage of teams located in or of particular interest to, that community, state or geographic region." ARC Comments at 8.

air broadcasters provide programming to the cable "networks" with which they compete is a mystery that MPAA does not address. Indeed, as recognized by the Commission, regional sports networks, for example, have added substantially to the variety of programming available to viewers by covering new and different sports which broadcast stations and national cable networks traditionally have not covered. See Interim Report, PP Docket No. 93-21, FCC 93-333 (rel. July 1, 1993) ("Interim Report"), at ¶67 (citing record evidence that "regional cable sports networks provide coverage of a wide variety of previously untelevised professional and amateur sporting events").

The Local Governments argue that, because "[m]ost local and regional networks offer primarily sports programming, and are part of large national conglomerates," they should not be excluded from the channel occupancy limits. Local Governments Comments at 10. Thus, the Local Governments' opposition apparently is premised upon an incorrect assumption about the content of local and regional programming services and demonstrates a blatant bias against sports programming. The record in this proceeding confirms that a variety of news and other local and regional programming services are carried by cable.³ Further, as the Supreme Court

³ Cable operators offer regional cable news, public affairs, and other niche services. See Comments of Cablevision Systems Corporation, filed on Feb. 9, 1993, at 5 ("News 12" on Long Island); Comments of Continental Cablevision, Inc., filed Feb. 9, 1993, at 12-14 ("New England Cable

has recognized, live coverage of "outstanding local events [such] as community concerts, civic meetings, local sports events, and other programs of local consumer and social interest" serves the public interest. United States v. Midwest Video Corp., 406 U.S. 649, 668-69 (1972), quoting National Broadcasting Co. v. United States, 319 U.S. 190, 203 (1943) (emphasis added).

The fact that larger business entities have invested in regional programming networks in no way detracts from the public interest benefits of such local programming. After reviewing an extensive record in the sports migration proceeding, the Commission concluded that the regional sports networks attacked by the Local Governments add to the diversity of viewer choices by providing coverage of events involving smaller collegiate athletic conferences, high school teams, and other amateur athletic conferences which "would not otherwise be shown." Interim Report at ¶13.

The record in this proceeding is clear and unequivocal -- local and regional cable programming services increase diversity and promote the local origination of programming which both Congress and the Commission have recognized to be in the public interest. Because the channel

News"); Time Warner Comments, filed Feb. 9, 1993, at 45 ("New York 1"); Liberty Media Comments, filed Feb. 9, 1993, at 26 (Jade Plus joint venture between Viacom and TVB of Hong Kong provides programming for large Cantonese population in San Francisco; Simmons Cable in Long Beach, California provides channel featuring Cambodian, Vietnamese and Filipino programming).

occupancy limits would inhibit investment in and development of local and regional programming services, the Commission should finally adopt its proposed exclusion for such services.

September 3, 1993

Respectfully submitted,

AFFILIATED REGIONAL
COMMUNICATIONS, LTD.

By David B. Gluck
David B. Gluck
Mark R. Boyes
600 Las Colinas Boulevard
Suite 2200
Irving, Texas 75039
(214) 401-0099

Its Attorneys